

statutes or the regulations implementing the Act. The provisions of this subpart are applicable to all crop insurance policies written by the Federal Crop Insurance Corporation (the Corporation) or reinsured by the Corporation.

(b) The provisions of this subpart will be effective for the crop and crop year immediately following the first crop cancellation date occurring after the effective date of the Act for all crop policies reinsured by FCIC, and for all policies and regulations for crop insurance issued by FCIC.

§ 400.46 Definitions.

For the purpose of this regulation and in addition to the definitions included at 7 CFR 12.2, the following definitions are applicable:

(a) *Controlled substance* means any prohibited drug-producing plants including, but not limited to, cacti of the genus *lophophora*, coca bushes (*erythroxylum coca*), marijuana (*cannabis sativa*), opium poppies (*papaver somniferum*), and other drug-producing plants, the planting and harvesting of which is prohibited by Federal or State law.

(b) *Person* means any producer, tenant, or landlord, insured under a policy of crop insurance issued by FCIC, or by a multi-peril insurance company whose crop insurance policy is reinsured by FCIC.

(c) *State* means each of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific.

(d) *The Act* means the Food Security Act of 1985 (Pub. L. 99-198).

§ 400.47 Denial of crop insurance.

(a) Any person convicted under Federal or State law of planting, cultivating, growing, producing, harvesting or storing a controlled substance in any crop year will be ineligible for crop insurance during that crop year and the four succeeding crop years.

(1) The insurance of such person insured by FCIC who found to be ineligible under paragraph (a) of this section will be null and void, and any in-

demnity paid on such insurance must be returned in full to FCIC. Any premium paid for insurance coverage declared null and void will be returned, less a reasonable amount for expenses and handling not to exceed 20 percent of the premium paid.

(2) The application and policy of insurance will be voided, or the person will be removed from the policy and the policyholder share reduced in accordance with 7 CFR 400.681(b), when any person becomes ineligible for crop insurance under the provisions of paragraph (a) of this section. To obtain crop insurance coverage following the period of ineligibility, the person must submit a new application for crop insurance.

(b) Any insurance written by a multi-peril crop insurance company to any person who is ineligible under the provisions of this subpart is not eligible for reinsurance under the Corporation's standard reinsurance agreement. Any premium subsidy and expense allowance or loss paid by the Corporation because of such agreement will be immediately refunded to the Corporation. Notwithstanding any other provision of law, policies written by multi-peril crop insurance companies to any person ineligible under the provisions of this subpart are null and void. Premium paid for such policies will be refunded to the person applying for insurance, less a reasonable amount for expenses and handling not to exceed 20 percent of the premium paid, and no indemnity will be paid unless the multi-peril company expressly agrees to continue such policy in effect without FCIC reinsurance. However, if the reinsured company follows the procedure of the Corporation and the requirements of the regulations, reinsurance will continue to be provided under the reinsurance agreement on the policy unless it is shown that the agent or company had knowledge of facts which would indicate ineligibility on the part of the insured and failed to act on that knowledge.

(c) FCIC employees or contractors are required to report all suspected cases of violation of the Act or the regulations to the appropriate agency for a determination of violation. Benefits shall not be paid in such cases pending

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a determination from the appropriate agency.

(d) Notwithstanding any other provision of this subpart, any crop insurance policy where insurance attached to a crop prior to August 15, 1986, will continue in effect for that crop until the next termination date following August 15, 1986.

[52 FR 19128, May 21, 1987, as amended at 58 FR 17945, Apr. 7, 1993; 61 FR 38058, July 23, 1996; 65 FR 29942, May 10, 2000]

§ 400.48 Protection of interests of tenants, landlords or producers.

Any tenant, landlord or producer on the farm separate from the person declared ineligible for crop insurance under the provisions of § 400.47 of this part, will remain eligible for crop insurance on their insurable share in the crop, unless such tenant, landlord, or producer on the farm is:

(a) Also convicted of planting, cultivating, growing, producing, or storing a controlled substance;

(b) Otherwise determined by FCIC to be ineligible for crop insurance.

[52 FR 19128, May 21, 1987, as amended at 61 FR 38058, July 23, 1996]

§§ 400.49–400.50 [Reserved]

Subpart G—Actual Production History

AUTHORITY: 7 U.S.C. 1506, 1516.

SOURCE: 59 FR 47787, Sept. 19, 1994, unless otherwise noted.

§ 400.51 Availability of actual production history program.

An Actual Production History (APH) Coverage Program is offered under the provisions contained in the following regulations:

7 CFR 401.110—Almond Endorsement
7 CFR part 405—Apple Crop Insurance
7 CFR 401.118—Canning and Processing Bean Endorsement
7 CFR part 409—Arizona-California Citrus Crop Insurance
7 CFR 401.127—Cranberry Endorsement
7 CFR part 433—Dry Beans Crop Insurance
7 CFR 401.116—Flaxseed Endorsement
7 CFR part 415—Forage Production Corp Insurance
7 CFR 401.130—Grape Endorsement

7 CFR part 455—Macadamia Nut Crop Insurance

7 CFR 401.126—Onion Endorsement

7 CFR part 447—Popcorn Crop Insurance

7 CFR part 403—Peach Crop Insurance

7 CFR 401.140—Pear Endorsement

7 CFR part 416—Pea Crop Insurance

7 CFR 401.146—Fresh Plum Endorsement

7 CFR part 422—Potato Crop Insurance

7 CFR part 450—Prune Crop Insurance

7 CFR 401.123—Safflower Seed Endorsement

7 CFR 401.133—Sugarcane Endorsement

7 CFR part 430—Sugar Beet Crop Insurance

7 CFR 401.124—Sunflower Seed Endorsement

7 CFR part 437—Sweet Corn Crop Insurance

7 CFR part 441—Table Grape Crop Insurance

7 CFR 401.129—Guaranteed Tobacco Endorsement

7 CFR 401.114—Canning and Processing Tomato Endorsement

7 CFR part 454—Guaranteed Production Plan of Fresh Market Tomato

7 CFR part 446—Walnut Crop Insurance

7 CFR part 457—Common Crop Insurance Regulations; and all special provisions thereto unless specifically excluded by the special provisions.

The APH program operates within limits prescribed by, and in accordance with, the provisions of the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), only on those crops identified in this section in those areas where the Actuarial Table provides coverage. Except when in conflict with this subpart, all provisions of the applicable crop insurance contract for these crops apply.

§ 400.52 Definitions.

In addition to the definitions contained in the crop insurance contract, the following definitions apply for the purposes of the APH Coverage Program:

(a) *APH*—Actual Production History.

(b) *Actual yield*—The yield per acre for a crop year calculated from the production records or claims for indemnities. The actual yield is determined by dividing total production (which includes harvested and appraised production) by planted acres for annual crops or by insurable acres for perennial crops.

(c) *Adjusted yield*—The transitional or determined yield reduced by the applicable percentage for lack of records. The adjusted yield will equal 65 percent of the transitional or determined yield, if no producer records are submitted; 80